

LEGISLATURE OF NEBRASKA
 ONE HUNDREDTH LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 111

FINAL READING

Introduced by Erdman, 47

Read first time January 8, 2007

Committee: Agriculture

A BILL

1 FOR AN ACT relating to milk; to amend sections 2-3903, 2-3904,
 2 2-3909, 2-3911, 2-3913, 2-3916, 2-3919, 2-3920, 2-3921,
 3 2-3922, 2-3923, 2-3925, 2-3935, 2-3937, and 2-3942,
 4 Reissue Revised Statutes of Nebraska, and sections
 5 2-3901, 2-3902, 2-3906, 2-3907, 2-3908, 2-3910, 2-3914,
 6 2-3915, 2-3917, 2-3917.01, 2-3924, and 81-2,270, Revised
 7 Statutes Cumulative Supplement, 2006; to change and
 8 eliminate provisions relating to the regulation and
 9 processing of milk; to rename a law; to adopt federal
 10 and other national milk standards; to provide powers and
 11 duties for the Director of Agriculture and the Department
 12 of Agriculture; to provide and eliminate penalties; to
 13 eliminate an act and a fund; to harmonize provisions;

1 to repeal the original sections; and to outright repeal
2 sections 2-3905, 2-3918, 2-3926, 2-3927, 2-3931, 2-3932,
3 2-3934, 2-3936, 2-3937.01, 2-3939, 2-3940, 2-3941,
4 2-3943, 2-3944, 2-3945, and 2-3946, Reissue Revised
5 Statutes of Nebraska, and sections 2-3917.02, 2-3928,
6 2-3929, 2-3930, and 2-3938, Revised Statutes Cumulative
7 Supplement, 2006.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-3901, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~2-3901~~ (1) Sections ~~2-3901 to 2-3911~~ 1 to 28 of this act
4 and the publications adopted by reference in subsections (2) and
5 (3) of this section shall be known and may be cited as the Nebraska
6 ~~Pasteurized Milk Law.~~ Milk Act.

7 (2) The Legislature adopts by reference the following
8 official documents of the National Conference on Interstate Milk
9 Shipments as published by the United States Department of Health
10 and Human Services, United States Public Health Service/Food Food
11 and Drug Administration:

12 (a) Grade A Pasteurized Milk Ordinance, 1999 2005
13 Revision, as delineated in subsection (3) of this section;

14 ~~(b) Grade A Condensed and Dry Milk Products and Condensed~~
15 ~~and Dry Whey, 1995 Revision;~~

16 ~~(e) (b) Methods of Making Sanitation Ratings of Milk~~
17 ~~Supplies, 1999 2005 Revision;~~

18 ~~(d) (c) Procedures Governing the Cooperative State-Public~~
19 ~~Health Service/Food and Drug Administration Program of the National~~
20 ~~Conference on Interstate Milk Shipments, 1999 2005 Revision; and~~

21 ~~(e) (d) Evaluation of Milk Laboratories, 1995 2005~~
22 ~~Revision.~~

23 (3) All provisions of the Grade A Pasteurized Milk
24 Ordinance, 2005 Revision, including footnotes relating to
25 requirements for cottage cheese, and the appendixes with which

1 the ordinance requires mandatory compliance are adopted with the
2 following exceptions:

3 (a) Section 9 of the ordinance is replaced by section
4 ~~2-3903~~, 5 of this act;

5 (b) Section 15 of the ordinance is replaced by ~~sections~~
6 ~~2-3904 and 2-3905~~, section 6 of this act;

7 (c) Section 16 of the ordinance is replaced by section
8 ~~2-3909~~, 10 of this act;

9 (d) Section 17 of the ordinance is not adopted; and

10 (e) Section 3 of the ordinance, Administrative
11 Procedures, Issuance of Permits, is adopted with the following
12 modifications:

13 (i) The ~~Department of Agriculture~~ department may suspend
14 a permit for a definite period of time or place the holder of a
15 permit on probation upon evidence of violation by the holder of any
16 of the provisions of the Nebraska Pasteurized Milk Law, Milk Act;
17 and

18 (ii) Decisions of the department may be appealed and such
19 appeals shall be in accordance with the Administrative Procedure
20 Act.

21 (4) Copies of the Ordinance, the Appendixes, and the
22 publications, adopted by reference, shall be filed in the offices
23 of the Secretary of State, Clerk of the Legislature, and Department
24 of Agriculture.

25 Sec. 2. Section 2-3914, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~2-3914~~ For purposes of the Nebraska Manufacturing Milk
3 Act, unless the context otherwise requires:

4 (1) 3-A sanitary standards means the standards for dairy
5 equipment formulated by the 3-A sanitary standards committees
6 representing the International Association of Milk, Food and
7 Environmental Sanitarians, the United States Department of Health
8 and Human Services, and the Dairy Industry Committee and published
9 by the International Association of Milk, Food and Environmental
10 Sanitarians in effect on July 1, 2001;

11 (2) Acceptable milk means milk that qualifies under
12 sections ~~2-3915 to 2-3917.01~~ 15 to 18 of this act as to sight and
13 odor and that is classified acceptable for somatic cells, bacterial
14 content, drug residues, and sediment content;

15 (3) Components of milk means whey, whey and milk protein
16 concentrate, whey cream, cream, butter, skim milk, condensed
17 milk, ultra-filtered milk, milk powder, dairy blends that are
18 at least fifty-one percent dairy components, and any similar milk
19 by-product; Adulterated milk and dairy products means any milk or
20 dairy products in which one or more of the conditions described
21 in section 402 of the Federal Food, Drug, and Cosmetic Act, as it
22 exists on July 1, 2001, exist;

23 (4) C-I-P or cleaned-in-place means the procedure
24 by which sanitary pipelines or pieces of dairy equipment are
25 mechanically cleaned in place by circulation;

1 ~~(5) Dairy farm or farm means a place or premises where~~
2 ~~one or more milking cows, goats, or sheep are kept and milk~~
3 ~~is produced and offered for sale to a plant for manufacturing~~
4 ~~purposes;~~

5 ~~(6) Dairy plant, plant, or receiving station means any~~
6 ~~place, premises, or establishment where milk or dairy products are~~
7 ~~received or handled for processing or manufacturing or prepared for~~
8 ~~distribution. When plant is used in connection with the production,~~
9 ~~transportation, grading, or use of milk, it means any plant that~~
10 ~~handles or purchases milk for manufacturing purposes, and when used~~
11 ~~in connection with minimum specifications for plants or issuing~~
12 ~~of permits to plants, it means only those plants that manufacture~~
13 ~~dairy products;~~

14 ~~(7) (5) Dairy products means products allowed to be made~~
15 ~~from milk for manufacturing purposes and not required to be of~~
16 ~~Grade A quality;~~

17 ~~(8) (6) Department means the Department of Agriculture;~~

18 ~~(9) (7) Director means the Director of Agriculture or his~~
19 ~~or her duly authorized agent or designee;~~

20 ~~(10) Fieldman (8) Field representative means an~~
21 ~~individual qualified and trained in the sanitary methods of~~
22 ~~production and handling of milk as set forth in the Nebraska~~
23 ~~Manufacturing Milk Act and who is generally employed by a~~
24 ~~processing or manufacturing milk plant or cooperative for the~~
25 ~~purpose of quality control work;~~

1 ~~(11) Hauler-sampler means an individual who collects and~~
2 ~~samples milk from a dairy farm for delivery to a dairy plant,~~
3 ~~receiving station, or transfer station;~~

4 ~~(12) Inspector means an employee of the department who is~~
5 ~~qualified and trained to perform inspections under the act;~~

6 ~~(13) Laboratory procedures means procedures found in: (a)~~
7 ~~Standard Methods for the Examination of Dairy Products, sixteenth~~
8 ~~edition, a publication of the American Public Health Association;~~
9 ~~(b) Official Methods of Analysis, fifteenth edition, a publication~~
10 ~~of the AOAC International; (c) Pesticide Analytical Manual, second~~
11 ~~edition, a publication of the federal Environmental Protection~~
12 ~~Agency; (d) Bacteriological Analytical Manual, seventh edition, a~~
13 ~~publication of the federal Food and Drug Administration; and (e)~~
14 ~~other methods that have shown to be equally accurate, precise, and~~
15 ~~practical and which have been approved by the director;~~

16 ~~(14) Milk means the normal lacteal secretion, practically~~
17 ~~free from colostrum, obtained by the complete milking of one or~~
18 ~~more healthy cows, goats, or sheep. Milk includes only milk for~~
19 ~~manufacturing purposes. Cow milk, goat milk, sheep milk, or a~~
20 ~~combination thereof may be used to manufacture dairy products that~~
21 ~~are legally provided for in 21 C.F.R., as it exists on July 1,~~
22 ~~2001, or for nonstandardized products when properly labeled;~~

23 ~~(15) (9) Milk for manufacturing purposes means milk~~
24 ~~produced for processing and manufacturing into products not~~
25 ~~required by law to be of Grade A quality;~~

1 ~~(16)~~ Milking facility means a milking barn, milking
2 area, or milking parlor in which the milking of dairy animals is
3 performed;

4 ~~(17)~~ Permit means a permit issued under the act by the
5 director;

6 ~~(18)~~ Person means an individual, plant operator,
7 partnership, limited liability company, corporation, company, firm,
8 trustee, or association;

9 ~~(19)~~ (10) Probational milk means milk classified
10 undergrade for somatic cells, bacterial content, or sediment
11 content that may be accepted by plants for specific time periods;
12 and

13 ~~(20)~~ Producer means the person or persons who exercise
14 control over the production of the milk delivered to a processing
15 plant or receiving station for manufacturing purposes;

16 ~~(21)~~ (11) Reject milk means milk that does not qualify
17 under sections ~~2-3915 to 2-3917.01~~; 15 to 18 of this act.

18 ~~(22)~~ State-certified laboratory means a dairy industry
19 laboratory or commercial laboratory certified under the Grade A
20 Interstate Milk Shippers Program or that has been certified by the
21 department to perform official work for examination of milk for
22 manufacturing purposes as required in the Nebraska Manufacturing
23 Milk Act; and

24 ~~(23)~~ Transfer station means any place, premises, or
25 establishment where milk for manufacturing purposes or manufactured

1 milk products are transferred directly from one transport tank to
2 another.

3 Sec. 3. Section 2-3902, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~2-3902~~ The Nebraska ~~Pasteurized Milk Law~~ Milk Act shall
6 be used for the regulation of: (1) The production, transportation,
7 processing, handling, sampling, examination, grading, labeling,
8 and sale of all milk and milk products; ~~other than milk and~~
9 ~~milk products regulated under the Nebraska Manufacturing Milk Act;~~
10 (2) the inspection of dairy herds, dairy farms, milk plants,
11 plants fabricating single-service articles, transfer stations,
12 receiving stations, milk haulers, and milk distributors; and (3)
13 the issuance, suspension, and revocation of permits.

14 Sec. 4. (1) A milk producer shall receive a Grade A milk
15 producer permit if the milk produced is in conformance with all
16 requirements of the Nebraska Milk Act for Grade A milk or milk
17 products.

18 (2) A milk producer shall receive a manufacturing grade
19 milk producer permit if the milk produced is in conformance with
20 all requirements of the Nebraska Milk Act for manufacturing grade
21 milk or dairy products.

22 (3) Dairy products made from milk for manufacturing
23 purposes shall not be labeled with the Grade A designation.

24 Sec. 5. Section 2-3903, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~2-3903~~ (1) Except as provided in subsections (2) and (3)
2 of this section, only Grade A pasteurized milk and milk products
3 from approved sources with an appropriate permit issued by the
4 department or a similar regulatory authority of another state shall
5 be sold to the final consumer or to restaurants, soda fountains,
6 grocery stores, or similar establishments.

7 (2) In an emergency, the sale of pasteurized milk and
8 milk products which have not been graded or the grade of which is
9 unknown may be authorized by the regulatory agency, in which case
10 such milk and milk products shall be labeled as ungraded.

11 (3) Milk and ~~milk products~~ cream produced by farmers
12 exclusively for sale at the farm directly to customers for
13 consumption and not for resale shall be exempt from the Nebraska
14 ~~Pasteurized Milk Law.~~ Milk Act.

15 (4) If the permit of a Grade A milk producer is
16 suspended for sanitary or milk quality violations, ~~of the~~
17 ~~Nebraska Pasteurized Milk Law,~~ the producer may market milk, ~~for~~
18 manufacturing purposes only, for an interim period not to exceed
19 sixty days with the approval of the ~~Department of Agriculture,~~
20 department, if the milk meets the criteria of the ~~Nebraska~~
21 ~~Manufacturing Milk Act.~~ manufacturing grade milk.

22 Sec. 6. Section 2-3904, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~2-3904~~ The Nebraska ~~Pasteurized Milk Law~~ Milk Act shall
25 be administered and enforced by the ~~Department of Agriculture.~~

1 department.

2 Sec. 7. Section 2-3906, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 ~~2-3906~~ (1) As Until July 31, 2008, as a condition
5 precedent to the issuance of a permit issued pursuant to the
6 Nebraska ~~Pasteurized Milk Law,~~ and Milk Act, on or before August
7 1 of each year, ~~thereafter,~~ the following described annual permit
8 fees shall be paid to the department:

9	Milk Plant	\$100.00
10	Receiving Station	100.00
11	Plant Fabricating Single-Service Articles ..	100.00
12	Milk Distributor	75.00
13	Transfer Station	50.00
14	Milk Tank Truck Cleaning Facility	50.00
15	Milk Transportation Company	25.00
16	Milk Hauler	25.00
17	Milk Producer	No Fee
18	Milk Tank Truck	No Fee

19 (2) If the applicant is an individual, the application
20 for a permit shall include the applicant's social security number.

21 (3) ~~All~~ Until September 30, 2007, all raw milk produced
22 on farms or pasteurized in plants holding permits issued under the
23 Nebraska ~~Pasteurized Milk Law~~ act shall be subject to the payment
24 of inspection fees as prescribed in subsections (4) through (7) of
25 this section. All fees shall be paid on or before the fifteenth

1 of the month for milk produced or processed during the preceding
2 month. Inspection fees for milk pasteurized outside of Nebraska
3 shall be paid by the person shipping such raw milk outside the
4 state. Inspection fees for milk pasteurized within Nebraska shall
5 be paid by the plant pasteurizing such raw milk.

6 (4) The inspection fee on raw milk produced on a Grade
7 A farm holding a permit issued under the ~~Nebraska Pasteurized Milk~~
8 ~~Law~~ act and pasteurized at a Grade A plant holding a permit issued
9 under such law shall be three cents per hundredweight of raw milk
10 pasteurized.

11 (5) The inspection fee on raw milk produced on a Grade
12 A farm holding a permit issued under the ~~Nebraska Pasteurized Milk~~
13 ~~Law~~ act and pasteurized at a manufacturing milk plant shall be two
14 and one-half cents per hundredweight of raw milk pasteurized in
15 Nebraska, or per hundredweight of raw milk shipped from Nebraska,
16 as appropriate.

17 (6) The inspection fee on raw milk produced on a Grade
18 A farm holding a permit issued under the ~~Nebraska Pasteurized Milk~~
19 ~~Law~~ act and pasteurized at a plant located outside of Nebraska
20 shall be two and one-half cents per hundredweight of raw milk
21 shipped from Nebraska.

22 (7) The inspection fee on raw milk produced on a Grade
23 A farm not holding a permit issued under the ~~Nebraska Pasteurized~~
24 ~~Milk Law~~ act and pasteurized at a Grade A plant holding a permit
25 issued under such law shall be three-fourths of one cent per

1 hundredweight of raw milk pasteurized.

2 (8) (a) Beginning August 1, 2008, as a condition precedent
3 to the issuance of a permit pursuant to the Nebraska Milk Act, the
4 annual permit fees shall be paid to the department on or before
5 August 1 of each year as follows:

6 (i) Milk Plant processing 100,000 or less pounds per
7 month...\$100.00;

8 (ii) Milk Plant processing 100,001 to 2,000,000 pounds
9 per month...\$500.00;

10 (iii) Milk Plant processing more than 2,000,000 pounds
11 per month...\$1,000.00;

12 (iv) Receiving Station.....\$200.00;

13 (v) Plant Fabricating Single-Service Articles..\$300.00;

14 (vi) Milk Distributor.....\$150.00;

15 (vii) Transfer Station.....\$100.00;

16 (viii) Milk Tank Truck Cleaning Facility.....\$100.00;

17 (ix) Bulk Milk Hauler/Sampler.....\$25.00;

18 (x) Field Representative.....\$25.00;

19 and

20 (xi) Milk Producer.....No Fee.

21 (b) Beginning August 1, 2008, and on or before each
22 August 1 thereafter a Milk Transportation Company shall pay
23 twenty-five dollars for each truck in service on July 1 of
24 the current year, but in no case shall the fee be less than one
25 hundred dollars.

1 (9) (a) Beginning October 1, 2007, all milk or components
2 of milk produced or processed in Nebraska and milk or components of
3 milk shipped in for processing shall be subject to the payment of
4 inspection fees as provided in this subsection.

5 (b) There shall be three categories of inspection fees as
6 follows:

7 (i) The inspection fee for raw milk purchased directly
8 off the farm by first purchasers shall have a maximum inspection
9 fee of two and five-tenths cents per hundredweight for raw milk and
10 shall be paid by first purchasers;

11 (ii) The inspection fee for milk processed by a milk
12 plant shall be seventy-five percent of the fee paid by first
13 purchasers and shall be paid by the milk plant; and

14 (iii) The inspection fee for components of milk processed
15 shall be fifty percent of the fee paid by first purchasers and
16 shall be paid by the milk plant.

17 (c) All fees shall be paid on or before the fifteenth
18 of the month for milk or components of milk produced or processed
19 during the preceding month.

20 (d) The director may raise or lower the inspection fees
21 each year, but the fees shall not exceed the maximum fees set out
22 in subdivision (b) of this subsection. The director shall determine
23 the fees based on the estimated annual revenue and fiscal year-end
24 fund balance determined as follows:

25 (i) The estimated annual revenue shall not be greater

1 than one hundred seven percent of the program cash fund
2 appropriations allocated for the Nebraska Milk Act;

3 (ii) The estimated fiscal year-end cash fund balance
4 shall not be greater than seventeen percent of the program cash
5 fund appropriations allocated for the act; and

6 (iii) All fee increases or decreases shall be equally
7 distributed between categories to maintain the percentages set
8 forth in subdivision (b) of this subsection.

9 ~~(8)~~ (10) If any person required to have a permit pursuant
10 to the ~~Nebraska Pasteurized Milk Law~~ act has been operating prior
11 to applying for a permit, an additional fee of one hundred dollars
12 shall be paid upon application.

13 Sec. 8. Section 2-3907, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~2-3907~~ Whenever a regulatory agency finds milk or milk
16 products being manufactured, processed, transported, distributed,
17 offered for sale, or sold, in violation of the adulteration or
18 misbranding provisions of the Nebraska Pasteurized Milk Law, Milk
19 Act, it shall have the authority to issue and enforce a written
20 or printed stop-sale, stop-use, or removal order to the person in
21 charge of such milk or milk product only if the issuance of such
22 an order is necessary for the protection of the public health,
23 safety, or welfare. Such an order shall specifically describe the
24 nature of the violation found and the precise action necessary to
25 bring the milk or milk products into compliance with the applicable

1 provisions of the ~~Nebraska Pasteurized Milk Law~~ act. Such an order
2 shall clearly advise the person in charge of the milk or milk
3 products that he or she may request an immediate hearing before
4 the ~~Director of Agriculture~~ director or his or her designee on
5 the matter. The issuance of orders under this section shall be
6 limited to instances in which no alternative course of action would
7 sufficiently protect the public health, safety, or welfare.

8 Sec. 9. Section 2-3908, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 ~~2-3908~~ The ~~Department of Agriculture~~ department may adopt
11 and promulgate reasonable rules and regulations to carry out the
12 ~~Nebraska Pasteurized Milk Law~~ Milk Act.

13 Sec. 10. Section 2-3909, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~2-3909~~ (1) The ~~Department of Agriculture~~ department
16 may apply for a restraining order or a temporary or permanent
17 injunction against any person violating or threatening to violate
18 the ~~Nebraska Pasteurized Milk Law~~ Milk Act or the rules and
19 regulations adopted and promulgated pursuant to ~~such law~~ the act
20 in order to insure compliance with the provisions thereof. The
21 district court of the county where the violation is occurring or
22 is about to occur shall have jurisdiction to grant such relief
23 upon good cause shown. Relief may be granted notwithstanding the
24 existence of other remedies at law and shall be granted without
25 bond.

1 (2) Any person violating the act or who impedes,
2 obstructs, hinders, or otherwise prevents or attempts to prevent
3 the director in the performance of his or her duties in connection
4 with the enforcement of the act or the rules and regulations
5 adopted and promulgated by the department is guilty of a Class V
6 misdemeanor.

7 ~~(2)~~ (3) It shall be the duty of the county attorney of
8 the county in which violations of the ~~Nebraska Pasteurized Milk~~
9 ~~Law act~~ are occurring or are about to occur, when notified of such
10 violations or threatened violations by the department, to cause
11 appropriate proceedings under subsection (1) of this section to be
12 instituted and pursued in the district court without delay.

13 Sec. 11. Section 2-3910, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~2-3910~~ The ~~Director of Agriculture~~ director shall make
16 and publish the results of periodic surveys of milksheds to
17 determine the degree of compliance with the sanitary requirements
18 for the production, processing, handling, distribution, sampling,
19 and hauling of milk and milk products as provided in the Nebraska
20 ~~Pasteurized Milk Law.~~ Milk Act. ~~The Director of Agriculture~~
21 director shall have the power to adopt and promulgate reasonable
22 rules and regulations in accordance with the procedure defined
23 in the Administrative Procedure Act for the interpretation and
24 enforcement of this section. Such a survey or rating of a
25 milkshed shall follow the procedures prescribed by the United

1 States Department of Health and Human Services in its documents
2 entitled Methods of Making Sanitation Ratings of Milk Supplies,
3 ~~1999~~ 2005 Revision, and Procedures Governing the Cooperative
4 State-Public Health Service/Food and Drug Administration Program
5 for Certification of Interstate Milk Shippers, ~~1999~~ 2005 Revision.

6 Sec. 12. Section 2-3911, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~2-3911~~ All fees paid to the department in accordance with
9 the Nebraska Pasteurized Milk Law Milk Act shall be remitted to
10 the State Treasurer for credit to the Pure Milk Cash Fund, which
11 fund is hereby created. All money credited to the fund shall be
12 appropriated to the uses of the department to aid in defraying
13 the expenses of administering ~~such law-~~ the act. Any money in
14 the fund available for investment shall be invested by the state
15 investment officer pursuant to the Nebraska Capital Expansion Act
16 and the Nebraska State Funds Investment Act. Any money in the
17 Manufacturing Milk Cash Fund on the effective date of this act
18 shall be transferred to the Pure Milk Cash Fund on such date.

19 Sec. 13. (1) Beginning August 1, 2008, milk plants or
20 any entity purchasing raw milk from producers holding a permit
21 under the Nebraska Milk Act may employ, contract with, or otherwise
22 provide for the services of a competent and qualified field
23 representative who may:

24 (a) Inform new producers about the requirements of dairy
25 farm sanitation and assist dairy producers with milk quality

1 problems;

2 (b) Collect and submit samples at the request of the
3 department; and

4 (c) Advise the department of any circumstances that could
5 be of public health significance.

6 (2) An applicant for a field representative permit shall
7 be trained in the sanitation practices for the sampling, care of
8 samples, and milk hauling requirements of the Nebraska Milk Act.
9 Prior to obtaining a field representative permit, the applicant
10 shall take and pass an examination approved by the department and
11 shall pay the permit fee set forth in section 7 of this act. The
12 permit shall expire on July 31 of the year following issuance.

13 Sec. 14. Section 2-3913, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~2-3913~~ It is hereby recognized and declared as a
16 matter of legislative determination that in the field of human
17 nutrition, safe, clean, wholesome milk ~~for manufacturing purposes~~
18 is indispensable to the health and welfare of the citizens
19 of the State of Nebraska; that milk is a perishable commodity
20 susceptible to contamination and adulteration; that the production
21 and distribution of an adequate supply of clean, safe, and
22 wholesome milk ~~for manufacturing purposes~~ are significant to sound
23 health; and that minimum standards are declared to be necessary
24 for the production and distribution of milk and milk products. ~~for~~
25 ~~manufacturing purposes.~~

1 Sec. 15. Section 2-3915, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~2-3915~~ The classification of raw milk for manufacturing
4 purposes shall be based on sight and odor and quality control tests
5 for somatic cells, bacterial content, sediment content, and drug
6 residues. Classification shall be either acceptable, probational,
7 or reject.

8 Sec. 16. Section 2-3916, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~2-3916~~ The odor of acceptable raw milk for manufacturing
11 purposes shall be fresh and sweet. The milk shall be free from
12 objectionable feed and other off-odors that would adversely affect
13 the finished product, and it shall not show any abnormal condition,
14 including, but not limited to, curdled, ropy, bloody, or mastitic
15 condition, as indicated by sight or odor.

16 Sec. 17. Section 2-3917, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~2-3917~~ (1) All dairy plants using milk for manufacturing
19 purposes shall run the quality tests set out in this section in a
20 state-certified laboratory and report the results to the department
21 upon request. The test methods shall be those stated in laboratory
22 procedures.

23 ~~(1)~~ (2) Milk for manufacturing purposes shall be
24 classified for bacterial content by the standard plate count or
25 plate loop count. Bacterial count limits of individual producer

1 milk shall not exceed five hundred thousand per milliliter.

2 ~~(2)~~ (3) Bacterial counts for milk for manufacturing
3 purposes shall be run at least four times in six consecutive
4 months at irregular intervals at times designated by the director
5 on representative samples of each producer's milk. Whenever any
6 two out of four consecutive bacterial counts exceed five hundred
7 thousand per milliliter, the producer shall be sent a written
8 notice by the department. Such notice shall be in effect so long
9 as two of the last four consecutive samples exceed the limit of
10 the standard set out in subdivision (1) of this section. A producer
11 sample shall be taken between three and twenty-one days after
12 the second excessive count. If that sample indicates an excessive
13 bacterial count, the producer's milk shall be rejected until
14 subsequent testing indicates a bacterial count of five hundred
15 thousand per milliliter or less.

16 (4) All standards and procedures of the Grade A
17 Pasteurized Milk Ordinance, 2005 Revision, relating to somatic
18 cells shall apply to milk for manufacturing purposes.

19 ~~(3) All dairy plants shall smell all raw milk received.~~
20 ~~Milk failing to meet the odor standards of section 2-3916 shall be~~
21 ~~rejected.~~

22 ~~(4) Laboratory examinations for somatic cells shall~~
23 ~~be conducted at least four times in six consecutive months~~
24 ~~at irregular intervals at times designated by the director on~~
25 ~~representative samples of each producer's milk. Such examinations~~

1 may begin with a screening test to determine whether the sample
2 exceeds a Wisconsin Mastitis Test result of ten millimeters or
3 higher.

4 (5) If a sample exceeds the screening test results set
5 out in subdivision (4) of this section or if no screening test
6 is run, either of the following tests shall be used to obtain an
7 official result:

8 (a) Direct microscopic somatic cell count or equivalent;
9 or

10 (b) Electronic somatic cell-counting procedure.

11 Whenever an official result indicates a somatic cell
12 count of more than seven hundred fifty thousand somatic cells per
13 milliliter for cow milk or sheep milk or one million per milliliter
14 for goat milk, the procedure set out under subdivision (6) of this
15 section shall be applied.

16 (6) The following somatic cell standards shall apply
17 to individual manufacturing milk producers: Cow and sheep milk
18 shall not exceed seven hundred fifty thousand somatic cells per
19 milliliter, and goat milk shall not exceed one million somatic
20 cells per milliliter. Whenever any two out of four consecutive
21 somatic cell counts exceed the standard, the producer shall be
22 sent a written notice by the department. Such notice shall be in
23 effect so long as two of the last four consecutive samples exceed
24 the limit of the standard set out in this subdivision. A producer
25 sample shall be taken between three and twenty-one days after the

1 second excessive count. Whenever three out of five consecutive
2 samples are in excess of the standard, the producer's milk shall
3 be rejected until subsequent testing indicates a somatic cell count
4 equal to or less than the standard. For three weeks after the
5 acceptable count is obtained, the producer's milk shall be tested
6 at least once a week but no more than twice a week. Testing at
7 this frequency shall continue until three consecutive acceptable
8 counts are obtained, after which testing may return to the routine
9 frequency prescribed in subdivision (4) of this section.

10 (7) Milk from cows, goats, or sheep infected with
11 mastitis, milk containing drug residues, or milk containing
12 pesticides or other chemical residues in excess of the established
13 limits shall not be sold or offered for sale for human food. Cows,
14 goats, or sheep that secrete abnormal milk shall be milked last
15 or with separate equipment. This milk shall be excluded from the
16 supply. Milk from cows, goats, or sheep treated with drugs shall be
17 excluded for such period of time as is necessary to have the milk
18 free from drug residues.

19 (8) Each producer's milk shall be tested by the plant
20 at least four times each six months at irregular intervals at
21 times designated by the director for drug residues. Load samples
22 may be tested in lieu of individual producer samples if all
23 the producer samples are available to identify the responsible
24 producer in case of positive results. Milk found to contain drug
25 residues shall be handled as prescribed in subdivision (7) of this

1 ~~section. State-certified laboratories shall immediately notify the~~
2 ~~department of drug residues.~~

3 ~~(9)(a)~~ (5) The industry shall test all producer's milk
4 and bulk milk pickup tankers for beta lactam drug residues
5 in accordance with Appendix N, Drug Residue Testing and Farm
6 Surveillance, of the Grade A Pasteurized Milk Ordinance, 2005
7 Revision. Additionally, other drug residues may be screened for by
8 employing a random sampling program on bulk milk pickup tankers.
9 Samples collected under the random sampling program shall be
10 analyzed as specified by the federal Food and Drug Administration.
11 All loads of milk testing positive for drug residue shall be
12 immediately reported to the department. Bulk loads of milk shall
13 be sampled prior to commingling and tested prior to processing of
14 the milk. Whenever a load of milk shows a positive test, individual
15 producer samples shall be individually tested to determine the
16 farm of origin. The samples shall be tested as directed by the
17 department. Accurate records of the results of the milk quality
18 and drug residue test for each producer shall be kept on file at
19 the plant for a period of not less than twelve months. The records
20 shall be available for examination by the department.

21 ~~(b)~~ When a producer's milk sample is found to be positive
22 for drug residue, the department shall immediately suspend the
23 permit of the producer. The producer's permit may be reinstated
24 when a sample taken from the producer's milk is no longer positive
25 for drug residue. All tests for suspension and reinstatement shall

1 be done in a certified laboratory using certified methods and
2 certified analysts. For a third occurrence of a positive drug
3 residue in a twelve-month period, the director shall initiate
4 administrative procedures to revoke the producer's permit.

5 (c) Whenever a load of milk is positive for drug residue,
6 it shall be deemed adulterated and shall not be used for human
7 consumption. The responsible producer shall be liable for the value
8 of the adulterated milk plus any cost associated with its disposal.
9 The department may accept certification from the milk purchaser as
10 verification that the producer was assessed the penalty.

11 (d) The department shall monitor industry surveillance
12 activities by making unannounced onsite inspections to collect
13 samples from bulk milk pickup tankers and to review industry
14 records of the random sampling program.

15 (e) The department shall perform routine sampling and
16 testing for drug residues.

17 (10) Each producer's milk shall be tested by the
18 department at least once a year for residues of pesticides or
19 other harmful chemicals. Milk found to contain excessive residues
20 of such substances shall be handled as prescribed in subdivision
21 (7) of this section.

22 Sec. 18. Section 2-3917.01, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 ~~2-3917.01~~ (1) Milk for manufacturing purposes shall be
25 classified for sediment content, regardless of the results of the

1 appearance and odor examination described in section ~~2-3916~~, 16 of
2 this act, according to sediment standards as follows:

3 (a) No. 1: Acceptable, not to exceed fifty-hundredths
4 milligrams or its equivalent;

5 (b) No. 2: Acceptable, not to exceed one and
6 fifty-hundredths milligrams or its equivalent;

7 (c) No. 3: Probational, not over ten days, not to exceed
8 two and fifty-hundredths milligrams or its equivalent; and

9 (d) No. 4: Reject, over two and fifty-hundredths
10 milligrams or its equivalent.

11 (2) Methods for determining the sediment content of the
12 milk of individual producers shall be the methods described in
13 the laboratory procedures. Sediment content shall be based on
14 comparison with applicable charts of subpart T, sections ~~58.2728~~
15 ~~to 58.2732~~ of the United States Sediment Standards for Milk and
16 Milk Products, 7 C.F.R. ~~58~~, 58.134, as such standards exist section
17 existed on July 1, ~~2001~~. 2006.

18 (3) Sediment testing shall be performed at least four
19 times every six months at irregular intervals as designated by the
20 director.

21 (4) If the sediment disc is classified as No. 1, No. 2,
22 or No. 3, the producer's milk may be accepted. If the sediment disc
23 is classified as No. 4, the milk shall be rejected. A producer's
24 milk that is classified as No. 3 may be accepted for a period
25 not to exceed ten calendar days. If at the end of ten days the

1 producer's milk does not meet acceptable sediment classification
2 No. 1 or No. 2, it shall be rejected from the market. If the
3 sediment disc is classified as No. 4, the milk shall be rejected
4 and no further shipments accepted unless the milk meets the
5 requirements of No. 3 or better.

6 Sec. 19. Section 2-3919, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~2-3919~~ A milking facility producing milk for
9 manufacturing purposes of adequate size and arrangement shall be
10 provided to permit normal sanitary milking operations. Such milking
11 facility shall be physically separated by solid partitions or doors
12 from other parts of the barn or building which do not meet the
13 requirements of this section. A milking facility shall meet the
14 following requirements:

15 (1) Sufficient space shall be provided for each dairy
16 animal during the milking operation. If housed in the same area,
17 the individual dairy animal should be able to lie down comfortably
18 without being substantially in the gutter or alley. There shall not
19 be overcrowding of the dairy animals;

20 (2) Maternity pens and calf, kid, and lamb pens, if
21 provided, shall be properly maintained and cleaned regularly;

22 (3) Walls and ceilings shall be of solid and tight
23 construction and in good repair;

24 (4) Only dairy animals shall be permitted in any part of
25 the milking facility;

1 (5) The floors and gutters of the milking facility shall
2 be constructed of concrete or other impervious material, graded to
3 drain, and in good repair;

4 (6) The milking facility shall be well lighted and well
5 ventilated to accommodate day or night milking;

6 (7) The milking facility shall be kept clean with walls
7 and ceilings kept free of filth, cobwebs, and manure. The floor
8 shall be scraped or washed after each milking and the manure stored
9 to prevent access by dairy animals;

10 (8) Only articles directly related to the normal milking
11 operation may be stored in the milking facility; and

12 (9) Feed storage rooms and silo areas ~~should~~ shall be
13 partitioned from the milking facility.

14 Sec. 20. Section 2-3920, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~2-3920~~ The yard or loafing area of a facility producing
17 milk for manufacturing purposes shall be of ample size to prevent
18 overcrowding, shall be drained to prevent forming of water pools,
19 and shall be kept clean. Manure piles shall not be accessible
20 to the dairy animals. Swine shall not be allowed in the yard or
21 loafing area.

22 Sec. 21. Section 2-3921, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~2-3921~~ All facilities producing milk for manufacturing
25 purposes shall meet the following requirements:

1 (1) The udders and teats of all dairy animals shall be
2 washed or wiped immediately before milking with a clean damp cloth
3 or paper towel moistened with a sanitizing solution and wiped dry
4 or by any other sanitary method. The milker's clothing shall be
5 clean and his or her hands clean and dry. Dairy animals treated
6 with drugs shall be milked last and the milk excluded from the
7 supply as ~~required in subdivision (7) of section 2-3917.~~ for such
8 period of time as is necessary to have the milk free from drug
9 residues;

10 (2) Milk stools, antikickers, and surcingles shall be
11 kept clean and properly stored. Dusty hay shall not be fed in the
12 milking facility immediately before milking. Strong flavored feeds
13 should not be fed before milking; and -

14 (3) Drugs shall be stored in such manner that they cannot
15 contaminate the milk or dairy products or milk contact areas.
16 Unapproved or improperly labeled drugs shall not be used to treat
17 dairy animals and shall not be stored in the barn or milking
18 facility. Drugs intended for the treatment of nonlactating dairy
19 animals shall be segregated from drugs used for lactating dairy
20 animals. All drugs shall be properly labeled to include:

21 (a) The name and address of the manufacturer or
22 distributor for drugs or veterinary practitioners dispensing the
23 product for prescription and extra-labeling-use drugs;

24 (b) The established name of the active ingredient, or if
25 formulated from more than one ingredient, the established name of

1 each ingredient;

2 (c) Directions for use, including the class or species or
3 identification of the animals, and the dosage, frequency, route of
4 administration, and duration of therapy;

5 (d) Any cautionary statements; and

6 (e) The specified withdrawal or discard time for meat,
7 milk, eggs, or any food which might be derived from the treated
8 animal.

9 Sec. 22. Section 2-3922, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 2-3922 Milk for manufacturing purposes in farm bulk tanks
12 shall be cooled to forty degrees Fahrenheit or lower within two
13 hours after milking and maintained at fifty degrees Fahrenheit or
14 lower until transferred to the transport tank. Milk offered for
15 sale for manufacturing purposes shall be in a farm bulk tank that
16 meets all 3-A sanitary standards.

17 Sec. 23. Section 2-3923, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 2-3923 A milkhouse or milkroom at a facility producing
20 milk for manufacturing purposes shall be conveniently located and
21 properly constructed, lighted, and ventilated ~~shall be provided~~ for
22 handling and cooling milk in farm bulk tanks. The milkhouse or
23 milkroom shall meet the following requirements:

24 (1) Adequate natural or artificial lighting shall be
25 provided for conducting milkhouse or milkroom operations. Light

1 fixtures shall not be installed directly above farm bulk milk
2 tanks in areas where milk is drained or in areas where equipment
3 is washed or stored. A minimum of thirty footcandles of light
4 intensity shall be provided where the equipment is washed. All
5 artificial lighting shall be from permanent fixtures;

6 (2) Adequate ventilation shall be provided to prevent
7 odors and condensation on walls and ceilings;

8 (3) The milkhouse or milkroom shall be used for no other
9 purpose;

10 (4) Adequate facilities for washing and storing milking
11 equipment shall be provided in the milkhouse or milkroom. Only
12 C-I-P equipment shall be stored in the milking area or milking
13 parlor. Hot and cold running water under pressure shall be provided
14 in the milkhouse or milkroom;

15 (5) If the milkhouse or milkroom is part of the milking
16 facility or other building, it shall be partitioned and sealed to
17 prevent the entrance of dust, flies, or other contamination. Walls,
18 floors, and ceilings shall be kept clean and in good repair;

19 (6) Feed concentrates, if stored in the building, shall
20 be kept in a tightly covered box or bin;

21 (7) The floor of the building shall be of concrete or
22 other impervious material and graded to provide drainage;

23 (8) All doors in the milkhouse or milkroom shall
24 be self-closing. Outer screen doors shall open outward and be
25 maintained in good repair;

1 (9) No animals shall be allowed in the milkhouse or
2 milkroom;

3 (10) A farm bulk tank shall be properly located in the
4 milkhouse or milkroom for access to all areas for cleaning and
5 servicing. It shall not be located over a floor drain or under a
6 ventilator or a light fixture;

7 (11) A suitable hoseport opening shall be provided in
8 the milkhouse or milkroom for hose connections and the hoseport
9 shall be fitted with a tight-fitting door which shall be kept
10 closed except when the port is in use. An easily cleanable
11 surface shall be constructed under the hoseport adjacent to the
12 outside wall ~~sufficiently~~ large enough to protect the milkhose from
13 contamination;

14 (12) The truck approach to the milkhouse or milkroom
15 shall be properly graded and surfaced to prevent mud or pooling
16 of water at the point of loading. It shall not pass through any
17 livestock holding area;

18 (13) All windows, if designed to be opened, shall be
19 adequately screened;

20 (14) Surroundings shall be neat, clean, and free of
21 harborage and pooled water; and

22 (15) Handwashing facilities shall be provided which shall
23 include soap, single-service towels, running water under pressure,
24 a sink, and a covered refuse container.

25 Sec. 24. Section 2-3924, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~2-3924 Utensils,~~ At a facility producing milk for
3 manufacturing purposes, utensils, milk cans, milking machines,
4 including pipeline systems, and other equipment used in the
5 handling of milk shall be maintained in good condition, shall be
6 free from rust, open seams, milkstone, or any unsanitary condition,
7 and shall be washed, rinsed, and drained after each milking,
8 stored in suitable facilities, and sanitized immediately before
9 use. New or replacement can lids shall be umbrella type. All
10 new utensils, new farm bulk tanks, and equipment shall meet 3-A
11 sanitary standards and comply with applicable rules and regulations
12 of the department.

13 Sec. 25. Section 2-3925, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~2-3925~~ The ~~dairy farm~~ water supply at a facility
16 producing milk for manufacturing purposes shall be safe, clean,
17 and ample for the cleaning of dairy utensils and equipment. The
18 water supply shall meet the bacteriological standards established
19 by the Department of Health and Human Services Regulation and
20 Licensure at all times. Water samples shall be taken, analyzed, and
21 found to be in compliance with the requirements of the Nebraska
22 ~~Manufacturing~~ Milk Act prior to the issuance of a permit to the
23 producer and whenever any major change to the well or water source
24 occurs. Wells or water sources which do not meet the construction
25 standards of the Department of Health and Human Services Regulation

1 and Licensure shall be tested annually, and wells or water sources
2 which do meet the construction standards of the Department of
3 Health and Human Services Regulation and Licensure shall be tested
4 every three years. Whenever major alterations or repairs occur
5 or a well or water source repeatedly recontaminates, the water
6 supply shall be unacceptable until such time as the construction
7 standards are met and an acceptable supply is demonstrated. On
8 and after October 1, 1989, all new producers issued permits under
9 the Nebraska Manufacturing Milk Act shall be required to meet the
10 construction standards established by the Department of Health and
11 Human Services Regulation and Licensure for private water supplies.

12 Sec. 26. Section 2-3935, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 2-3935 When milk and milk products pasteurization is
15 intended or required or when a product is designated pasteurized,
16 pasteurization shall be accomplished by heating every particle of
17 milk or skim milk to a temperature of not less than one hundred
18 forty-five degrees Fahrenheit and cream and other milk products to
19 at least one hundred fifty degrees Fahrenheit and ice cream mix
20 to at least one hundred fifty-five degrees Fahrenheit and holding
21 them at those temperatures continuously for not less than thirty
22 minutes, or milk or skim milk to a temperature of one hundred
23 sixty-one degrees Fahrenheit and cream and other milk products to
24 at least one hundred sixty-six degrees Fahrenheit for not less
25 than fifteen seconds, and ice cream mix to at least one hundred

1 ~~seventy-five degrees Fahrenheit for not less than twenty-five~~
2 ~~seconds, or by any other combination of temperature and time giving~~
3 ~~equivalent results.~~

4 Cream for buttermaking shall be pasteurized at a
5 temperature of not less than one hundred sixty-five degrees
6 Fahrenheit and held continuously in a vat at such temperature
7 for not less than thirty minutes, or at a temperature of not
8 less than one hundred eighty-five degrees Fahrenheit for not less
9 than fifteen seconds, or any other temperature and holding time
10 approved by the director that will assure pasteurization and
11 comparable keeping-quality characteristics. ~~If the vat method of~~
12 ~~pasteurization is used, vat covers shall be kept closed during the~~
13 ~~holding and cooling periods. The vat shall meet the requirements~~
14 ~~set out in subsection (4) of section 2-3929.~~

15 Sec. 27. Section 2-3937, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~2-3937~~ Dairy products shall be packaged in commercially
18 acceptable containers or packaging material that will protect the
19 quality of the contents in regular channels of trade. Prior to
20 use packaging materials shall be protected against dust, mold, and
21 other possible contamination.

22 Commercial bulk shipping containers for dairy products
23 shall be legibly marked with the name of the product, net
24 weight or content, name and address of processor, manufacturer,
25 or distributor, and plant code number. Consumer-packaged products

1 shall be legibly marked with the name of the product, net weight or
2 content, plant code number, and name and address of the packer or
3 distributor.

4 Sec. 28. Section 2-3942, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~2-3942~~ (1) The director or his or her duly authorized
7 agent shall have access during regular business hours to any
8 milking facility or dairy plant for which a permit is held in which
9 milk is used or stored for use in the manufacture, processing,
10 packaging, or storage of ~~manufactured~~ milk or milk products or
11 to enter any vehicle being used to transport or hold such milk
12 or ~~manufactured~~ milk products for the purpose of inspection and
13 to secure specimens or samples of any milk or milk product after
14 paying or offering to pay for such sample or specimen. The director
15 may analyze and inspect samples of raw milk and dairy products.

16 (2) The director or his or her duly authorized agent
17 shall have access during regular business hours to the books and
18 records of any permitholder under the Nebraska ~~Manufacturing~~ Milk
19 Act when such access is necessary to properly administer and
20 enforce such act.

21 Sec. 29. Section 81-2,270, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 81-2,270 (1) No person shall operate: (a) A food
24 establishment; (b) a food processing plant; or (c) a salvage
25 operation, without a valid permit which sets forth the types of

1 operation occurring within the establishment.

2 (2) Application for a permit shall be made to the
3 director on forms prescribed and furnished by the department. Such
4 application shall include the applicant's full name and mailing
5 address, the names and addresses of any partners, members, or
6 corporate officers, the name and address of the person authorized
7 by the applicant to receive the notices and orders of the
8 department as provided in the Nebraska Pure Food Act, whether
9 the applicant is an individual, partnership, limited liability
10 company, corporation, or other legal entity, the location and
11 type of proposed establishment or operation, and the signature
12 of the applicant. Application for a permit shall be made prior
13 to the operation of a food establishment, food processing plant,
14 or salvage operation. The application shall be accompanied by an
15 initial permit fee and an initial inspection fee in the same amount
16 as the annual inspection fee if inspections are required to be
17 done by the department. If the food establishment, food processing
18 plant, or salvage operation has been in operation prior to applying
19 for a permit, the applicant shall pay an additional fee of sixty
20 dollars.

21 (3) Payment of the initial permit fee, the initial
22 inspection fee, and the fee for failing to apply for a permit
23 prior to operation shall not preclude payment of the annual
24 inspection fees due on August 1 of each year. Except as provided in
25 subsections (7) through (10) of this section and subsection (1) of

1 section 81-2,281, a permitholder shall pay annual inspection fees
2 on or before August 1 of each year.

3 (4) (a) The director shall set the initial permit fee and
4 the annual inspection fees on or before July 1 of each fiscal year
5 to meet the criteria in this subsection. The director may raise or
6 lower the fees each year, but the fees shall not exceed the maximum
7 fees listed in subdivision (4) (b) of this section. The director
8 shall determine the fees based on estimated annual revenue and
9 fiscal year-end cash fund balance as follows:

10 (i) The estimated annual revenue shall not be greater
11 than one hundred seven percent of program cash fund appropriations
12 allocated for the Nebraska Pure Food Act;

13 (ii) The estimated fiscal year-end cash fund balance
14 shall not be greater than seventeen percent of program cash fund
15 appropriations allocated for the act; and

16 (iii) All fee increases or decreases shall be equally
17 distributed between all categories. and

18 (b) The maximum fees are:

19				Additional	
20		First	Food		
21		Food	Preparation	Unit	
22		Preparation	Area	Or	
23		Area	Annual	Units	
24	Food	Initial	Annual	Inspection	Annual
25	Handling	Permit	Inspection	Fee	Inspection

LB 111

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1	Activity	Fee	Fee	(per area)	Fee
2	Convenience Store	\$61.72	\$61.72	\$30.86	N/A
3	Licensed Beverage				
4	Establishment	\$61.72	\$61.72	\$30.86	N/A
5	Limited Food Service				
6	Establishment	\$61.72	\$61.72	\$30.86	N/A
7	Temporary Food				
8	Establishment	\$61.72	\$61.72	\$30.86	N/A
9	Mobile Food Unit				
10	(for each unit)	\$61.72	N/A	N/A	\$30.86
11	Pushcart (for each				
12	unit)	\$61.72	N/A	N/A	\$12.34
13	Vending Machine				
14	Operations:	\$61.72			
15	One to ten units		N/A	N/A	\$12.34
16	Eleven to twenty units		N/A	N/A	\$24.68
17	Twenty-one to thirty units		N/A	N/A	\$37.02
18	Thirty-one to forty units		N/A	N/A	\$49.36
19	Over forty units		N/A	N/A	\$61.70
20	Food Processing				
21	Plant	\$61.72	\$86.40	\$30.86	N/A
22	Salvage Operation	\$61.72	\$86.40	\$30.86	N/A
23	Commissary	\$61.72	\$86.40	\$30.86	N/A
24	All Other Food				

1	Establishments	\$61.72	\$86.40	\$30.86	N/A
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2 (5) If a food establishment is engaged in more than
 3 one food handling activity listed in subsection (4) of this
 4 section, the inspection fee charged shall be based upon the primary
 5 activity conducted within the food establishment as determined by
 6 the department and any fees assessed for each additional food
 7 preparation area within the primary establishment as determined by
 8 the department.

9 (6) The department may impose a penalty for an inspection
 10 fee which is more than one month delinquent. The penalty may not
 11 exceed fifty percent of the fee for the first month of delinquency
 12 and one hundred percent of the fee for the second month of
 13 delinquency.

14 (7) An educational institution, health care facility,
 15 nursing home, or governmental organization operating any type of
 16 food establishment, other than a mobile food unit or pushcart, is
 17 exempt from the requirements in subsections (1) through (6) of this
 18 section.

19 (8) A person whose primary food-related business activity
 20 is determined by the department to be egg handling within the
 21 meaning of the Nebraska Graded Egg Act and who is validly licensed
 22 and paying fees pursuant to such act is exempt from the permit and
 23 inspection fee requirements of the Nebraska Pure Food Act.

24 (9) A person holding a permit or license and regulated

1 under the Nebraska ~~Manufacturing~~ Milk Act ~~or the Nebraska~~
2 ~~Pasteurized Milk Law~~ and an egg handler licensed and regulated
3 under the Nebraska Graded Egg Act are exempt from the Nebraska Pure
4 Food Act.

5 (10) A single event food vendor or a religious,
6 charitable, or fraternal organization operating any type of
7 temporary food establishment, mobile food unit, or pushcart is
8 exempt from the requirements of subsections (1) through (6) of
9 this section. Any such organization operating any nontemporary
10 food establishment prior to July 1, 1985, is exempt from the
11 requirements of subsection (2) of this section.

12 Sec. 30. Original sections 2-3903, 2-3904, 2-3909,
13 2-3911, 2-3913, 2-3916, 2-3919, 2-3920, 2-3921, 2-3922, 2-3923,
14 2-3925, 2-3935, 2-3937, and 2-3942, Reissue Revised Statutes of
15 Nebraska, and sections 2-3901, 2-3902, 2-3906, 2-3907, 2-3908,
16 2-3910, 2-3914, 2-3915, 2-3917, 2-3917.01, 2-3924, and 81-2,270,
17 Revised Statutes Cumulative Supplement, 2006, are repealed.

18 Sec. 31. The following sections are outright repealed:
19 Sections 2-3905, 2-3918, 2-3926, 2-3927, 2-3931, 2-3932, 2-3934,
20 2-3936, 2-3937.01, 2-3939, 2-3940, 2-3941, 2-3943, 2-3944, 2-3945,
21 and 2-3946, Reissue Revised Statutes of Nebraska, and sections
22 2-3917.02, 2-3928, 2-3929, 2-3930, and 2-3938, Revised Statutes
23 Cumulative Supplement, 2006.